

# MISSOURI DEPARTMENT OF MENTAL HEALTH



DEPARTMENT  
OPERATING  
REGULATION  
NUMBER

DOR  
8.170

MARK STRINGER, DEPARTMENT DIRECTOR

CHAPTER Regulatory Compliance	SUBCHAPTER HIPAA Regulation	EFFECTIVE DATE 6/23/16	NUMBER OF PAGES 3	PAGE NUMBER 1 of 3
SUBJECT External PHI Data Request Process		AUTHORITY 45 CFR Section 164 et seq	HISTORY See Below	
PERSON RESPONSIBLE General Counsel			Sunset Date 7/1/19	

**PURPOSE:** This DOR will provide instructions regarding the Department of Mental Health's (DMH) obligations relating to external PHI data requests. This will assure compliance with the HIPAA requirements related to the use or disclosure of PHI.

**APPLICATION:** DMH, its facilities and workforce.

## (1) DEFINITIONS:

(A) External data requests: Requests for the exchange, sharing or disclosing of consumer protected health information by an agency, organization, or entity outside of the Department of Mental Health. Examples include compiled or aggregate data requests as a result of interagency activities, agreements, or collaborative initiatives.

(B) External data: Relates to DMH consumer services or data concerning consumers from other agencies for whom the department provides some level of service. This does not include requests for information on one consumer, assuming that either a HIPAA valid authorization has been executed or the disclosure meets an exception as allowed under HIPAA.

(C) DMH Privacy Officer: The person officially designated to oversee all ongoing activities related to the development, implementation, maintenance of, and adherence to the Department of Mental Health Operating Regulations pertaining to the privacy of, and access to, consumer health information in compliance with federal and state laws and the Department of Mental Health's notice of privacy practices.

(D) Protected Health Information (PHI): Individually identifiable health information that is transmitted or maintained in any form or medium, by a covered entity, health plan or clearinghouse as defined under the Health Insurance Portability and Accountability Act (HIPAA), 45 CFR Part 160 and 164.

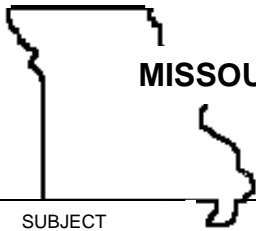
(E) DMH workforce members: Includes all state employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity, is under the direct control of such entity, whether or not they are paid by the covered entity (facility or DMH). This shall include client workers employed by DMH or its facilities.

## (2) PROCEDURE

(A) DMH staff shall contact the DMH Privacy Officer when there is a request, or it is anticipated that a collaborative initiative will result in a request for the exchange of PHI. That contact shall occur prior to staff entering into or signing any agreement binding DMH to any timelines or data exchanges. Agreements should be signed by authorized DMH personnel.

1. This applies to compiled or aggregate data requests as a result of interagency activities, agreements, or collaborative initiatives.

2. This request applies to DMH consumer services or data concerning consumers from other agencies for whom DMH provides some services.



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3. These requests do not include circumstances in which a request is made for information on one consumer, assuming a proper authorization has been executed or for which an HIPAA exception applies.

(B) The division, office, or facility handling the information request is required to identify an individual to work with the DMH Privacy Officer in the review of the request, and to provide specific information describing the following:

1. Nature of the disclosure;
2. All agencies and parties involved;
3. Frequency and duration of the data exchange;
4. Purpose and expected outcome of the exchange of data;
5. Specific data elements to be exchanged (such as variables or demographics);
6. Any known Missouri statutory requirement(s) associated with the exchange of data;
7. Any documents already executed between the parties, including but not limited to, purchase contracts, memorandums of understanding, grant awards, initiative or project proposals, business associate agreements, and qualified service organization agreements;

and

8. Method of data transmittal (electronic, paper, oral, other).

(C) The DMH Privacy Officer, upon review and consultation related to the scope of work with the identified division, office or facility staff, and the General Counsel's Office, if applicable, will reach consensus as to the extent to which the information disclosure activity must be formalized to satisfy HIPAA requirements. Possible documents that may be necessary include:

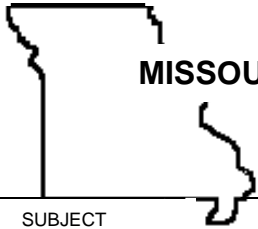
1. Business Associate Agreements;
2. Memorandum of Understanding;
3. Interagency Agreement;
4. Any other legally recognized HIPAA mechanism or exception; or
5. Denial of the data exchange request.

(D) After completion of subdivisions (B) and (C) of this section, the DMH Privacy Officer will issue a legal advisory memorandum to the DMH staff initiating the request. That document will detail steps that need to be taken to achieve a HIPAA compliant disclosure, or that the external data request is denied. Response time may vary, but is not to exceed thirty (30) calendar days for resolution.

(3) **NO LOCAL POLICIES:** There shall be no local policies on this topic. The Department Operating Regulation shall control.

(4) **SANCTIONS:** Failure to comply or assure compliance with this DOR shall result in disciplinary action, up to and including dismissal.

(5) **REVIEW PROCESS:** The Office of General Counsel will serve as the repository for all agreements; contracts, memorandums of understanding, etc., that are executed for external data requests, and shall further maintain copies of the original data request. DMH workforce members shall provide such information to the Office of General Counsel on an ongoing basis.



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*History: Original DOR effective July 15, 2003. Renewed effective July 1, 2007. Renewed effective July 1, 2010. Amendment effective June 15, 2013. Amendment effective June 23, 2016.*